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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,904	12/01/2003	J. Rodney Walton	030412	3195
23596 7590 03/31/2008 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
EXAMINER JAIN, RAJ K				
ART UNIT 2616		PAPER NUMBER		
NOTIFICATION DATE 03/31/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/725,904

Applicant(s)

WALTON ET AL.

Examiner

RAJ K. JAIN

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/31/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-11, 16, 18-22, 24-26, 29-34, 37-40 and 43 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 12-15, 17, 23, 27, 28, 35, 36, 41, 42, 44 and 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 37-42 are objected to because of the following informalities: Change the word "machine" to "computer". It is suggested that claims 37 and 40 be rewritten possibly as follows; "A computer readable medium having executable instructions to perform operations including:". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 35-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The subject claims recite "machine readable medium" however, there is no support in the specifications to define what constitutes a "machine readable medium". Suggest deleting the terms or rewording the claims appropriately.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5,8-11,16, 18-22, 24-26, 29-34, 37-40 and 43 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Akella et al (US 2003/0202492 A1)

Regarding claims 1, 2, 9, 20, 25, 30, 34, 37, 40 and 43, Akella discloses a method for processing information in a communication system (abstract), comprising:
partitioning a control channel used for transmitting control information into a plurality of subchannels (Figs. 2 & 7, Para 6, 31, 32 and 40 control channels R-DCCH and F-DCCH are partitioned into subchannels I and Q which are used to transmit and receive control message), each subchannel being operated at a specific data rate (Fig. 7; Para 57 each subchannel carries its specific data rate); selecting, for each of one or more user terminals, one of the subchannels to be used for transmitting control information from an access point to the respective user terminal, based on one or more selection criteria (Paras 54-56, channel selection is based on different factors); and transmitting control information from the access point to a particular user terminal on a particular subchannel selected for the respective user terminal (Para 40 control information is transmitted to the mobile via one of the selected subchannels I or Q as appropriate).

Regarding claims 3, 4, 21, 31, and 38, Akella discloses each subchannel is associated with a specific set of operating parameters (Para 54-56; and Fig. 7 which shows different data rates and PAR values).

Regarding claims 5, 22, 26 and 32, Akella discloses plurality of subchannels are transmitted sequentially in an order from a subchannel with a lowest data rate to a subchannel with a highest data rate (Para 52).

Regarding claims 8, 19, 24, 29, 33, and 39, Akella discloses the one or more selection criteria are selected from the group consisting of a first criterion corresponding to a link quality associated with the respective user terminal, a second criterion corresponding to quality of service requirements associated with the respective terminal, and a third criterion corresponding to a subchannel preference indicated by the respective terminal (Paras 54-56).

Regarding claims 10, and 11, Akella discloses performing a decoding procedure to decode the one or more subchannels, starting with a subchannel operated at a lowest data rate, until at least one of a plurality of conditions is met (Para 52, Fig. 7; system decodes data at received data rate).

Regarding claim 16, While Akella explicitly does not disclose a cyclic redundancy check (CRC) check, however, one skilled in the art will appreciate that CRC is inherent within a wireless system for improving quality of voice/data transmission within a link, thus Akella inherently incorporates CRC within its system.

Regarding claim 18, Akella discloses plurality of user devices 120 (Fig. 1) where each device inherently has a Medium Access Control (MAC) identifier assigned by the manufacturer of the device to uniquely identify each device.

Allowable Subject Matter

Claims 6, 7, 12-15, 17, 23, 27, 28, 35, 36, 41, 42, 44 and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJ K. JAIN whose telephone number is (571)272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raj K. Jain/

Primary Examiner, Art Unit 2616

March 28, 2008